

ORDINANCE NO. 11-53

ORDINANCE REZONING FROM M-1 (INDUSTRIAL DISTRICT) TO M-3 (INDUSTRIAL DISTRICT), GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW A RECYCLING FACILITY PURSUANT TO HIALEAH CODE §98-1452, AND GRANTING A VARIANCE PERMIT TO ALLOW 3 PARKING SPACES, WHERE AT LEAST 6 PARKING SPACES ARE REQUIRED, CONTRA TO HIALEAH CODE §98-2189(15). **PROPERTY LOCATED AT 3850 N.W. 37 AVENUE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of June 22, 2011, recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The below-described property is hereby rezoned from M-1 (Industrial District) to M-3 (Industrial District), is hereby granted a special use permit (SUP) to allow a recycling facility pursuant to Hialeah Code §98-1452, and is hereby granted a variance permit to allow 3 parking spaces, where at least 6 parking spaces are required, contra to Hialeah Code §98-2189(15), which provides in pertinent part: *“Manufacturing and industrial use. One parking space for each 1,000 square feet, or fractional part thereof, of gross floor area.”* Property located at 3850 N.W. 37 Avenue, Hialeah, Miami-Dade County, Florida, and legally described as follows:

LOT 17, LESS THE EAST 10 FEET, OF BLOCK 5, OF THE AMENDED PLAT OF MELROSE GARDENS, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 7, AT PAGE 94, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Additional Penalties upon Violation of the Conditions of Use and/or Declaration of Restrictive Covenants.

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, will cause a revocation of the Special Use Permit and of the city occupational license issued in connection herewith and the property shall revert to the zoning classification without the benefit of the special use and associated variances.

Section 5: Severability Clause.

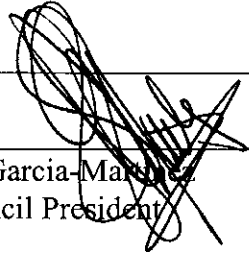
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

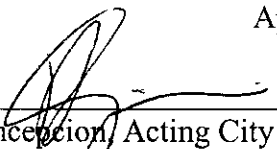
PASSED and ADOPTED this 26th day of July, 2011.

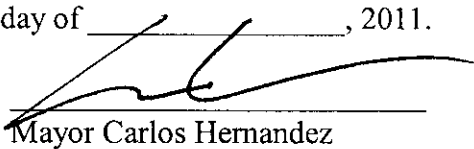
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Isis Garcia-Martinez
Council President

Attest:

Approved on this ____ day of ____, 2011.


David Concepcion, Acting City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

S:\LEB\LEGISLATION\2011-ORDINANCES\3850NW37AVE-rezoningtoM3-parking-SUPrecycling-PZJUN22.doc

Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals- Muñoz, Cue-Fuente, Garcia-Martinez, Hernandez and Yedra voting "Yes", Councilmember Gonzalez absent.



CFN 2011R0562563
OR Bk 27800 Pgs 4687 - 4691; (5pgs)
RECORDED 08/23/2011 14:17:47
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Prepared by and return to:
City of Hialeah
Planning Division
501 Palm Avenue, Second Floor
Hialeah, FL 33010

**DECLARATION OF RESTRICTIVE COVENANTS
(Corporate)**

(I) (WE), Sosa Investments, Inc., being the owner(s) of lands described herein:

the street property address is 3850 NW 37th Avenue, Hialeah, Florida

the folio number(s) is/are 04-3120-018-0710.

make the following Declaration of Restrictive Covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The recitals and findings set forth in the preamble of this Declaration are hereby adopted by reference thereto and incorporated herein as if fully set forth in this Section.
2. The Owners hereby makes the following voluntary declarations running with the land concerning the use of the Property:
 - A. That all M-3 Industrial uses shall be prohibited except for materials recycling within a fully enclosed facility.
 - B. That the metals that may be purchased by the facility shall be limited to copper, aluminum (no cans) and brass.
3. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed

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DECLARATION OF RESTRICTIVE COVENANTS

(Corporate)

comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

IN WITNESS WHEREOF, We have hereunto set out hands and seals at _____ (location) this 27 day of July, 2011.

Signed, sealed and delivered in the presence of: Name of Corporation: Sosa Investments, Inc.

Witness Ana Ugarte By: _____, President

Typed Printed Name Ana Ugarte Typed Printed Name _____

Witness James Pinkert By: _____, Secretary

Typed Printed Name JAMES PINKERT Typed Printed Name Elizabeth Sosa Poon

Corporate Seal

STATE OF

Florida

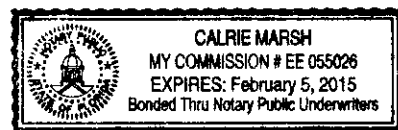
COUNTY OF

Miami-Dade

The foregoing instrument was acknowledged before me on the 28th day of July, 2011, by _____ as President and Elizabeth Sosa as Secretary, of Sosa Investments, Inc. a Florida corporation. They are personally known to me or have produced _____ as identification and did (did not) take an oath and who attest to the truth and accuracy of the representation contained herein.

Calrie Marsh
Signature of Notary Public
Calrie Marsh
Notary typed, printed or
stamped commission number

This document was prepared by:
Ben Fernandez, Esq.
Bercow Radell & Fernandez, P.A.
200 South Biscayne Boulevard, Suite 850
Miami, FL 33131
305-374-5300



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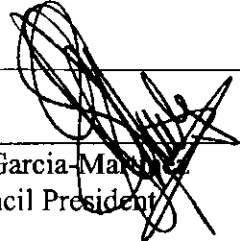
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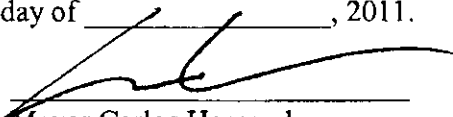
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Council President

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Mayor Carlos Hernandez

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William M. Grodnick, City Attorney

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